

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

PHILIP R. MCHUGH,

Plaintiff,

v.

FIFTH THIRD BANCORP, ET AL.

Defendants.

:  
: Case No. 1:21-cv-00238  
:  
: Judge Michael R. Barrett  
:  
: DECLARATION OF JOSHUA M.  
: SMITH IN SUPPORT OF  
: PLAINTIFF'S MOTION FOR  
: SANCTIONS  
:

I, Joshua M. Smith, Esq., hereby certify pursuant to 28 U.S.C. § 1746 that the statements set forth

below are true and correct to the best of my knowledge, information and belief:

1. I am competent to testify and have personal knowledge of the information presented herein.
2. Attached to this Declaration are true and accurate copies of documents referenced throughout Plaintiff's Motion for Sanctions, including Exhibits 1 through 28.
3. Attached as **Exhibit 1** is a true and accurate copy of excerpts from Plaintiff Philip McHugh's ("McHugh") deposition, taken August 30, 2021.
4. Attached as **Exhibit 2** is a true and accurate copy of correspondence sent by Plaintiff's Counsel to Judge Barrett, dated May 22, 2025.
5. Attached as **Exhibit 3** is a true and accurate copy of excerpts from Defendants' Answer and Counterclaim, filed April 8<sup>th</sup>, 2021.
6. Attached as **Exhibit 4** is a true and accurate copy of [REDACTED] **Exhibit 4** has been submitted to the Court for in-camera review.
7. Attached as **Exhibit 5** is a true and accurate copy of excerpts from Defendant Gregory Carmichael's ("Carmichael") deposition, taken September 27, 2023, and Robert Shaffer's ("Shaffer") deposition, taken August 24, 2023.
8. Attached as **Exhibit 6** is a true and accurate copy of excerpts from Defendants' December 22, 2021 Response to Interrogatory No. 4 from Plaintiff's First Set of Interrogatories.

9. Attached as **Exhibit 7** is a true and accurate copy of excerpts from Plaintiff's Requests for Production of Documents ("RFP") Nos. 3 and 7 from Plaintiff's Second Set of Requests for Production of Documents, dated September 27, 2021.
10. Attached as **Exhibit 8** is a true and accurate copy of excerpts from Defendants' December 22, 2021 Responses to RFP Nos. 3 and 7 from Plaintiff's Second Set of Requests for Production of Documents.
11. Attached as **Exhibit 9** is a true and accurate copy of e-mail correspondence sent by Defendant's Counsel to Judge Barrett, dated October 29, 2021.
12. Attached as **Exhibit 10** is a true and accurate copy of e-mail correspondence sent by Defendants' Counsel to Judge Barrett's Chambers, dated January 18, 2022.
13. Attached as **Exhibit 11** is a true and accurate copy of Plaintiff's original subpoena *duces tecum* issued to RHR, dated March 31, 2022.
14. Attached as **Exhibit 12** is a true and accurate copy of Plaintiff's second subpoena *duces tecum* served on RHR on April 19, 2023.
15. Attached as **Exhibit 13** is a true and accurate copy of correspondence sent by RHR's Counsel to Plaintiff's Counsel, dated April 14, 2022.
16. Attached as **Exhibit 14** is a true and accurate copy of correspondence sent by RHR's Counsel to Plaintiff's Counsel, dated May 3, 2023.
17. Attached as **Exhibit 15** is a true and accurate copy of e-mail correspondence sent by Plaintiff's Counsel to RHR's Counsel, dated November 6, 2024.
18. Attached as **Exhibit 16** is a true and accurate copy of e-mail correspondence sent by Defendants' Counsel to Plaintiff's Counsel, dated November 12, 2024.
19. Attached as **Exhibit 17** is a true and accurate copy of e-mail correspondence sent by RHR's Counsel to Plaintiff's Counsel, dated November 20, 2024.
20. Attached as **Exhibit 18** is a true and accurate copy of e-mail correspondence sent by RHR's Counsel to Plaintiff's Counsel, dated April 14, 2025.
21. Attached as **Exhibit 19** is a true and accurate copy of [REDACTED] **Exhibit 19** has been submitted to the Court for in-camera review.
22. Attached as **Exhibit 20** is a true and accurate copy of [REDACTED]

[REDACTED] Exhibit 20 has been submitted to the Court for in-camera review.

23. Attached as **Exhibit 21** is a true and accurate copy of [REDACTED].  
[REDACTED] Exhibit 21 has been submitted to the Court for in-camera review.
24. Attached as **Exhibit 22** is a true and accurate copy of [REDACTED].  
[REDACTED] Exhibit 22 has been submitted to the Court for in-camera review.
25. Attached as **Exhibit 23** is a true and accurate copy of [REDACTED].  
[REDACTED] Exhibit 23 has been submitted to the Court for in-camera review.
26. Attached as **Exhibit 24** is a true and accurate copy of [REDACTED].  
[REDACTED] Exhibit 24 has been submitted to the Court for in-camera review.
27. Attached as **Exhibit 25** is a true and accurate copy of [REDACTED].  
[REDACTED] Exhibit 25 has been submitted to the Court for in-camera review.
28. Attached as **Exhibit 26** is a true and accurate copy of [REDACTED].  
[REDACTED] Exhibit 26 has been submitted to the Court for in-camera review.
29. Attached as **Exhibit 27** is a true and accurate copy of e-mail correspondence sent by Defendants' Counsel to Plaintiff's Counsel, dated May 12, 2025.
30. Attached as **Exhibit 28** is a true and accurate copy of e-mail correspondence sent by Defendants' Counsel to Judge Barrett, dated May 20, 2025.

I declare under penalty of perjury that the foregoing is true and correct.



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Joshua M. Smith

Dated: 6/6/2025